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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/164,509	09/30/1998	REINHARD KLEMM	KLEMM-2	6743

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KEVIN M. MASON
RYAN & MASON
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

EXAMINER	
WILLETT, STEPHAN F	

ART UNIT	PAPER NUMBER
2152	7

DATE MAILED: 04/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/164,509	Applicant(s) Klemm
	Examiner Stephan Willett	Art Unit 2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Jan 11, 2002* .

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-29* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
18) ☐ Interview Summary (PTO-413) Paper No(s). _____
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 4-8, 14-16, 20-22, 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunkel et al. with Patent Number 5,961,6031 in view of Narayanaswami with Patent Number 6,182,1135.

3. Regarding claim(s) 1, 4-8, 14-16, 20-22, 25-29, Kunkel teaches a database communication network. Kunkel teaches *prefetching Internet resources* at col. 5, lines 1-5. Kunkel teaches *fetching data dependent on round trip times based on send and receive times and data size* as "by keeping statistics corresponding to the number of corrupted data packets received on each of the upstream channels", col. 8, lines 14-16 and "if a hyperlink request acknowledge (ACK) is subsequently received with a pre-determined number of time periods", col. 11, lines 61-63. Kunkel teaches the invention in the above claim(s) except for explicitly teaching *fetching data dependent on round trip times and data size.* Kunkel teaches the invention in the above claim(s) except for explicitly teaching *fetching data dependent on round trip times and data size.* In that Kunkel operates to obtain data resources from the Internet the artisan would have looked to the Internet database arts for details of implementing prefetching of data. In that art, Narayanaswami, a related database network, teaches that present Web pages

"are resolved periodically so as to maintain a list of currently active links", col. 6, lines 17-22 based on one or more variables. Narayanaswami specifically teaches "to employ the user-specified criterion or criteria (e.g. TOD, or TOD and LOC, or TOC, LOC, and UBW)", col. 7, lines 10-13. Further, Narayanaswami suggests that savings will result from implementing his downloading system. The motivation to incorporate limits on downloads insures that user data is readily available. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the time and capacity limits as taught in Narayanaswami into the prefetching system described in Kunkel because Kunkel operates with data constraints and Narayanaswami suggests that optimization can be obtained when data limitations are respected Therefore, by the above rational, the above claims are rejected.

4. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunkel et al. with Patent Number 5,961,6031 in view of Vaid et al. with Patent Number 6,119,235.

5. Regarding claim(s) 1, 4-8, 14-16, 20-22, 25-29, Kunkel teaches a database communication network. Kunkel teaches *prefetching Internet resources* at col. 5, lines 1-5. Kunkel teaches *fetching data dependent on round trip times base on send and receive times and data size* as "by keeping statistics corresponding to the number of corrupted data packets received on each of the upstream channels", col. 8, lines 14-16 and "if a hyperlink request acknowledge (ACK) is subsequently received with a pre-determined number of time periods", col. 11, lines 61-63. Kunkel teaches the invention in the above claim(s) except for explicitly teaching *fetching data dependent on round trip times and data size.* Kunkel teaches the invention in the above claim(s) except for explicitly teaching *fetching data dependent on round trip times and data size.* In that Kunkel operates to obtain data resources from the Internet the

artisan would have looked to the Internet database arts for details of implementing prefetching of data. In that art, Vaid, a related database network, teaches a system to schedule downloading of data in order to provide optimized computer usage. Vaid specifically teaches "estimating a bit rate over a round-trip-time between the data source and the data receiver", abstract. Further, Vaid suggests that savings will result from implementing his downloading system. The motivation to incorporate limits on downloads insures that user limits are respected. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the time and capacity limits as taught in Vaid into the prefetching system described in Kunkel because Kunkel operates with data constraints and Vaid suggests that optimization can be obtained when data limitations are respected Therefore, by the above rational, the above claims are rejected.

6. Regarding claims 2 and 18, Kunkel teaches *parallel fetching* at col. 5, lines 28-29. Thus, the above claim limitations are obvious in view of the combination.

7. Regarding claims 3, 10 and 19, Kunkel teaches *prefetching based on previous accesses* at col. 5, lines 57-60. Thus, the above claim limitations are obvious in view of the combination.

8. Regarding claims 9, Kunkel teaches *termination of prefetching* at col. 13, lines 29-31. Thus, the above claim limitations are obvious in view of the combination.

9. Regarding claims 11-13 and 23-24, Kunkel teaches *filtering data* at col. 5, 7, 8, lines 65-67, 59-63, 6-10. Thus, the above claim limitations are obvious in view of the combination.

Response to Amendment

10. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

11. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

12. Patentability when fetching based broadly on round trip times based on past performance or even inherently understood in a HEAD request is not reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains

13. Applicant suggests "the present invention, on the other hand, estimates the round-trip time of HTTP request/responses" Paper No. 6, Page 8, lines 10-11 and provides an excellent distinguishing example. But round trip time is widely known, as impled in the HEAD function. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

14. Applicant suggests "the present invention considers the length of an HTTP response ..., previous HTTP requests .., dynamically adjusted .... linear weighing functions ... and actually fetching a document" and "the resource from the server would be prefetched first" in Paper No. 8, Pages 7, 9, lines 20-29, 20-21. The above arguments are not commensurate with what is presently claimed and therefore will not be considered at this time. However, in an effort to further prosecution the above detail may support patentability, but a close look at the relevant references cited is warranted due to their similarity. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is

suggested.

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

17. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6606.

20. Any inquiry of a general nature or relating to the status of this application or pr

sfw

March 14, 2002

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100